Weekly Summary of Cases
National Labor Relations Board
Week of August 30-September 3*, 2010, W-3276
***Includes some cases from previous week**

The *Weekly Summary* is provided for informational purposes only and is not intended to substitute for the opinions of the NLRB. Inquiries should be directed to the Office of Public Affairs at Publicinfo@nlrb.gov or 202-273-1991.

Summarized Board Decisions

Acklin Stamping Company (8-CA-36788; 355 NLRB No. 160) Toledo, OH, August 27, 2010. [HTML] [PDF]

The Board majority found that the Union and the Employer did not violate the Act by the Union's requesting the discharge of an employee and by the Employer's discharging him based on that request. The Board majority found that the Union had presented sufficient evidence that the employee had failed to document his electrician credentials, and (through testimony by representatives of management and the Union) that he was not performing competently in his position. Member Schaumber, dissenting, agreed with the administrative law judge's characterization of the Union's evidence as "built on innuendo, speculation, and hearsay evidence." Member Schaumber would find that the Union did not satisfy its evidentiary burden because it failed to present testimony by individuals with first-hand knowledge of employee's performance. Member Schaumber also noted several conflicts in the evidence relied upon by the majority.

Charge filed by an Individual. Administrative Law Judge Bruce D. Rosenstein issued his decision May 4, 2007 and his supplemental decision February 15, 2008. Chairman Liebman and Members Schaumber and Pearce participated.

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Advanced Architectural Metals, Inc. (28-CA-20730, et al.; 355 NLRB No. 166) Las Vegas, NV, August 27, 2010. [HTML] [PDF]

The Board majority granted the General Counsel's Motion for Default Judgment based on the Respondents' failure to file a timely or legally sufficient answer to the amended compliance specification. Member Schaumber, dissenting, would deny default judgment, but would grant partial summary judgment.

The Board issued its Decision and Order December 27, 2007. Chairman Liebman and Members Schaumber and Becker participated.

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Affiliated Computer Services, Inc. (29–RC–11709; 355 NLRB No. 163) Staten Island, NY, August 27, 2010. [HTML] [PDF]

The Board denied review of the Regional Director's overruling of the Employer's objections to the election. The majority agreed that letters from a United States Congressman and New York State Senator that were circulated to employees did not interfere with the election. The Board also denied review on objections alleging union threats and improper conduct of the election. Member Schaumber, dissenting in part, found that the public officials interjected themselves into the election in a manner that upset the laboratory conditions for an election, and would remand the objections for a hearing to permit the Employer to litigate its allegations that the Union was responsible for preparing and distributing the letters at issue and that an agency relationship existed between the Union and the elected officials who signed the letters.

Petitioner – Communication Workers of America. The Regional Director issued his Supplemental Decision on Objections August 6, 2009. Chairman Liebman and Members Schaumber and Becker participated.

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Catholic Social Services, Diocese of Belleville (14-RC-12769; 355 NLRB No. 167) Belleville, IL, August 27, 2010. [HTML] [PDF]

The Board denied the Employer's request for review of the Regional Director's Decision and Direction of Election in a unit of residential treatment specialists and residential treatment aides. In the Order Denying Review, the majority found that that the Regional Director properly applied *NLRB v. Catholic Bishop*, 440 U.S. 490 (1979) in asserting jurisdiction over the Employer, a not-for-profit corporation engaged in the operation of a childcare facility. Even assuming *University of Great Falls v. NLRB*, 278 F.3d 1335 (D.C. Cir. 2002) governs the Board's assertion of jurisdiction over religious, educational institutions, the Board found that nonetheless it would conclude that it is appropriate to assert jurisdiction over the Employer. Member Schaumber, dissenting, would have granted review to consider the Employer's contention that the Employer's children's center is a religious organization over which the Board should not assert jurisdiction.

Petitioner – Teamsters, Automotive, Petroleum and Allied Trades Union Local 50, affiliated with the International Brotherhood of Teamsters. Chairman Liebman and Members Schaumber and Becker participated.

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CHS, Inc. (18-UC-422; 355 NLRB No. 164) Inver Grove Heights, MN, August 27, 2010. [HTML] [PDF]

The Board disagreed with the Regional Director's conclusion that the drivers whom the Union sought to accrete to the collective-bargaining unit had been historically excluded from that unit. Accordingly, the Board remanded the case to the Regional Director to address the merits of the accretion issue.

Petitioner – Local 638, International Brotherhood of Teamsters. The Regional Director issued his Decision and Order August 27, 2009. Chairman Liebman and Members Schaumber and Pearce participated.

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DHL Express, Inc. (4-CA-35417, et al.; 355 NLRB No. 144) Breinigsville, PA, August 27, 2010. [HTML] [PDF]

The Board unanimously adopted the administrative law judge's conclusions that the Respondent violated the Act by interfering with employees' protected handbilling activity, threatening employees, and discriminatorily cutting an employee's work hours, and giving him a negative performance appraisal. In addition, the majority affirmed the judge's conclusions that the Respondent's guards unlawfully surveilled employees' protected handbilling activity, and that both the Respondent and the labor relations consulting firm with which it had contracted violated the Act when one of the consultants from the firm threatened to sue one of the Respondent's employees for defamation as a result of his comments in a union newsletter. Finally, the Board majority adopted the judge's recommendation to set aside the results of the election and direct a second election.

Member Schaumber, dissenting in part, expressed the position that the Respondent's guards whose duties included, patrolling the area in which the employees were handbilling did not engage in unlawful surveillance. Member Schaumber additionally found that the labor consultant's threat to sue an employee for defamation did not violate the Act because the employee's written comments were maliciously false and, accordingly, lost the protection of the Act. Finally, Member Schaumber concluded that a new election was not warranted, as it was "virtually impossible" to conclude that the outcome of the election would have been affected by the Respondent's unlawful conduct during the critical period.

Charges were filed by American Postal Workers, AFL-CIO. Administrative law judge Robert A. Giannasi issued his decision June 5, 2008. Chairman Liebman and Members Schaumber and Pearce participated.

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E.I. DuPont De Nemours and Company (04-CA-33620; 355 NLRB No. 177) Edge Moor, DE, August 27, 2010. [HTML] [PDF]

The Board adopted the administrative law judge's finding that the Respondent violated the Act by unilaterally changing the terms of the employees' benefit plan at a time when the parties were negotiating for a collective-bargaining agreement and were not at impasse. As in *E.I. DuPont de Nemours, Louisville Works*, 355 NLRB 176 (2010) (*Louisville Works*), a companion case resolving a similar issue arising at a different facility, the Board found that the judge properly rejected the Respondent's argument that the changes to the employees' benefit plan were a continuation of its past practice. As in *Louisville Works*, the Board found that the *Courier Journal* cases, 342 NLRB 1093 (2004), and 342 NLRB 1148 (2004), were inapposite because the Respondent's prior changes to the employees' benefit plan did not establish a past practice of changes implemented during hiatus periods.

Member Schaumber, dissenting, would dismiss the complaint for the reasons he expressed in *Louisville Works*. He found that the Respondent's modifications to the employee benefit plan were implemented pursuant to a well-established past practice. Further, the "reservation of rights" clause in the employees' benefit plan was not a management-rights provision, but instead a discrete, specific, and integral component of the plan as a whole, pursuant to which the plan explicitly allowed for periodic changes to be made.

Charge filed by United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (USW), Local 4-786. Administrative Law Judge Paul Bogas issued his decision December 23, 2005. Chairman Liebman and Members Schaumber and Becker participated.

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E.I. DuPont De Nemours, Louisville Works (09-CA-40777, 41634; 355 NLRB No. 176) Louisville, KY, August 27, 2010. [HTML] [PDF]

The Board reversed the administrative law judge's dismissal of the complaint alleging that the Respondent violated the Act by unilaterally changing the terms of the employees' benefit plan at a time when the parties were negotiating for a collective-bargaining agreement and were not at impasse. Member Schaumber, dissenting, found that the Respondent's modifications to the employees' benefit plan were implemented pursuant to a well-established past. He found that established precedent was that parties by their actions can create a past practice authorizing an employer's unilateral action, which becomes the status quo.

Charges filed by Paper, Allied-Industrial, Chemical and Energy Workers International Union, Local 5-2002. Administrative Law Judge Karl H. Buschmann issued his decision December 15, 2005. Chairman Liebman and Members Schaumber and Becker participated.

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Hacienda Resort Hotel & Casino (28-CA-13274 and 28-CA-13275; 355 NLRB No. 154) Las Vegas, NV, August 27, 2010. [HTML] [PDF] ***Hacienda Hotel, Inc. Gaming Corp. d/b/a Hacienda Resort Hotel and Casino***

This case is on remand to the Board, from the United States Court of Appeals for the Ninth Circuit, for the second time. As the court stated, the issue squarely before the Board is "whether dues-checkoff in right-to-work states is subject to unilateral change, or whether, under such circumstances, dues-checkoff is a mandatory subject of bargaining." The court instructed the Board to explain the rule adopted in the Board's decision in *Hacienda I*, 331 NLRB 665 (2000), or abandon *Hacienda I* to adopt a different rule and present a reasoned explanation to support it. The four Board members eligible to participate in the decision (Chairman Liebman and Members Schaumber, Pearce, and Hayes; Member Becker was recused) considered the court's remand, but were unable to reach a majority agreement and were thus "deadlocked" on the remanded issue. Accordingly, the Board decided to follow extant precedent and affirm the administrative law judge's dismissal of the complaint allegation that Respondent violated the Act by unilaterally ceasing dues-checkoff after the contracts at issue expired.

Charges filed by Sahara Nevada Corp. d/b/a Sahara Hotel and Casino and Local Joint Executive Board of Las Vegas, Culinary Workers Union Local 226, and Bartenders Union, Local 165. Chairman Liebman and Members Schaumber, Pearce, and Hayes participated.

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Independence Residences, Inc. (29-RC-10030; 355 NLRB No. 153) Brooklyn, NY, August 27, 2010. [HTML] [PDF]

The Board found no merit to an Employer's objections to the results of an election won by the Union. The Employer's objections were all based on a section of New York State Labor Law which limited employers' use of state funds to encourage or discourage employees from

participating in union organization. The Employer alleged that the State law was preempted by Federal labor law; that if preempted, the law was, per se, grounds for overturning the election results; and that the law impeded the Employer's ability to communicate with employees during the election campaign. The Board assumed that the law was preempted but found that this alone was not grounds for overturning the election. In addition, the Board noted that the Employer was able to, and did, engage in a vigorous campaign to defeat the Union. The Board reasoned that since neither the Employer's nor the Union's conduct was at issue in the Employer's objections, the Board's standard applicable to third party conduct prevailed in this case. Pursuant to that standard, the Board found no objectionable conduct and certified the Union. Members Schaumber and Hayes, dissenting, found that the law was preempted by controlling Supreme Court precedent and that the majority had wrongly deferred to the State law and allowed it to impact on Federal elections or rights, among other findings.

Charges filed by the Union of Needletrades Industrial and Textile Employees (UNITE) AFL-CIO. Chairman Liebman and Members Schaumber, Becker, Pearce and Hayes participated.

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International Association of Machinists and Aerospace Workers, AFL-CIO; and International Association of Machinists and Aerospace Workers, AFL-CIO, Local Lodge 2777 (L-3 Communications Vertex Aerospace LLC) (15-CB-5169; 355 NLRB No. 174) Pensacola, FL, August 27, 2010. [HTML] [PDF]

In *Communication Workers of America v. Beck*, 487 U.S. 735, 745 (1988), the Supreme Court held that union nonmembers may be required, as a condition of employment, to support only those union activities that are germane to collective bargaining, contract administration, and grievance adjustment. Employees who declare themselves nonmember *Beck* objectors are entitled to have their union fees reduced by the amount of union expenditures over and above this "financial core." In *L-3 Communications,* the Board found that the Union violated its duty of fair representation by requiring *Beck* objectors to renew their objection annually. The majority found that the annual renewal was arbitrary because the Union offered no rational justification for the requirement. Member Pearce dissented, finding that the Union's proffered reason for annual renewal was reasonable. The majority reversed the administrative law judge, however, and found that the annual renewal requirement was not discriminatory. Members Schaumber and Hayes dissented. Member Schaumber also stated, in dissent, that *Beck* objectors have a statutory right to refrain from supporting union activities beyond the financial core, and thus a union's interference with that right, such as an annual renewal requirement, should be judged against the objector's statutory right rather than the deferential duty-of-fair-representation standard. Member Hayes stated that he was "in sympathy" with Member Schaumber's position. The Board ordered the Union to rescind the annual renewal requirement for *Beck* objectors and to notify its employees of the rescission.

Charges filed by an Individual. Administrative Law Judge Michael A. Marcionese issued his decision January 9, 2008. Chairman Liebman and Members Schaumber, Becker, Pearce, and Hayes participated.

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KenMor Electric Company, Inc. (16-CA-17895 et al., 355 NLRB No.173) Houston, TX, August 27, 2010. [HTML] [PDF]

The Board found that the Independent Electrical Contractors (IEC), a nonunion trade association consisting of more than 100 electrical contractor members in the Houston area, violated the Act

by maintaining a job application referral system that interfered with the rights of job applicants who were union members and "salts" to be hired on an equal basis with nonunion applicants. The IEC accepted applications and forwarded them to member contractors who decided whether to hire the applicants. The majority found that the "referral system in its totality," rather than any of its component parts, unlawfully hindered the efforts of union members, including three named discriminatees. Member Schaumber, dissenting, found that the majority's finding violated IEC's due process rights because the complaint did not allege this violation. Member Schaumber found that neither the referral system as a whole nor any of its component parts were unlawful (except for the $50 application fee). Instead, they served a legitimate and substantial business purpose, and applied equally to all applicants regardless of union affiliation. The Board unanimously found that three IEC employers violated the Act by refusing to hire the three union salts referenced above.

Charges filed by International Brotherhood of Electrical Workers, Local Union No.716, a/w International Brotherhood of Electrical Workers, AFL-CIO. Administrative Law Judge Howard I. Grossman issued his original decision on September 29, 1998, and a supplemental decision

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Kentucky River Medical Center (9-CA-42249, et al.; 355 NLRB No. 129) Jackson, KY, August 27, 2010. [HTML] [PDF] ***Jackson Hospital Corporation d/b/a Kentucky River Medical Center***

The Board found that the employer, a hospital, did not violate the Act by discharging a nurse who had failed to comply with its policies for handling blood in connection with transfusions, which failure resulted in a patient being transfused with blood not intended for him. The Board found that the employer satisfied its burden of proving that it would have discharged the nurse for that failure, even absent her union activity. Additionally, the Board found that the employer violated the Act by placing a second nurse on an indefinite investigatory suspension because of her union activities. The Board inferred that the suspension was unlawfully motivated by its unusual length and other circumstances suggesting that the investigation was a pretext

Charges filed by United Steel, Paper & Forestry, Rubber, Manufacturing, Energy, Allied Industrial & Service Workers International Union, AFL-CIO-CLC. Administrative Law Judge Paul Buxbaum issued his decision July 29, 2008. Chairman Liebman and Members Schaumber and Pearce participated.

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Kiewit Power Constructors Co. (17-CA-24192; 355 NLRB No. 150) Weston, MO, August 27, 2010. [HTML] [PDF]

Reversing the administrative law judge's decision, the Board found that the employer violated the Act by terminating two employees based on remarks they made while engaged with other employees and their Union steward in a protest of the employer's break-in-place policy and the employer's disciplinary action enforcing that policy. Member Schaumber, dissenting, agreed with the administrative law judge that the employees forfeited the protection of the Act by the nature of their remarks.

Charge filed by an Individual. Administrative Law Judge William L. Schmidt issued his decision December 31, 2008. Chairman Liebman and Members Schaumber and Pearce participated.

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Kraft Foods North America, Inc. (1-CA-39068; 355 NLRB No. 156) Woburn, MA, August 27, 2010. [HTML] [PDF]

The Board adopted the administrative law judge's findings that the Respondent violated the Act by refusing to comply with an information request made by the Union 15 months in advance of bargaining for a successor contract, in order to prepare for those negotiations. The Board found that the information requested was shown to be relevant to the Union's bargaining responsibilities, and that the Union's request for that information was not premature in view of the parties' bargaining history. Member Schaumber dissented, stating that he would find that the Union's information requests made 15 months and 14 months respectively before bargaining was even to begin on a successor contract were premature and that the Respondent did not violate the Act by refusing to furnish the information.

Charge filed by Office & Professional Employees International Union, Local 1295, AFL-CIO. Administrative Law Judge Martin J. Linsky issued his decision May 24, 2002. Chairman Liebman and Members Schaumber and Becker participated.

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L.L. Electric Co. and Independent Electrical Contractors of Houston, Inc. (16-CA-17895 et al., 355 NLRB No.173) Houston, TX, August 27, 2010. [HTML] [PDF] ***KenMor Electric Company, Inc. and H & J Electric Co. and Louis P. Lee d/b/a L.L. Electric Co. and Independent Electrical Contractors of Houston, Inc.***

The Board found that the Independent Electrical Contractors (IEC), a nonunion trade association consisting of more than 100 electrical contractor members in the Houston area, violated the Act by maintaining a job application referral system that interfered with the rights of job applicants who were union members and "salts" to be hired on an equal basis with nonunion applicants. The IEC accepted applications and forwarded them to member contractors who decided whether to hire the applicants. The majority found that the "referral system in its totality," rather than any of its component parts, unlawfully hindered the efforts of union members, including three named discriminatees. Member Schaumber, dissenting, found that the majority's finding violated IEC's due process rights because the complaint did not allege this violation Except for the $50 multiple application fee, which Member Schaumber found to be discriminatory, he found that neither the referral system as a whole nor any of its component parts were unlawful. Instead, they served a legitimate and substantial business purpose, and applied equally to all applicants regardless of union affiliation. Applying the test set forth in FES, 331 NLRB 9 (2000), the Board unanimously found that three IEC employers violated the Act by refusing to hire the three union salts referenced above. Although Member Schaumber agreed with this finding, he did not rely on the employers' use of the IEC referral system as supporting evidence of the unlawful refusal to hire.

Charges filed by International Brotherhood of Electrical Workers, Local Union No.716, a/w International Brotherhood of Electrical Workers, AFL-CIO. Administrative Law Judge Howard I. Grossman issued his original decision September 29, 1998, and a supplemental decision March 21, 2001. Chairman Liebman and Members Schaumber and Pearce participated.

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Local 1506, United Brotherhood of Carpenters and Joiners of America (Eliason & Knuth of Arizona, Inc.) (28-CC-00955; 355 NLRB No. 159) Phoenix, AZ, August 27, 2010. [HTML] [PDF]

The Board found the Union's display of large stationary banners announcing a "labor dispute" did not violate the Act, part of which makes it an unfair labor practice for unions or their agents "to threaten, coerce, or restrain" persons or industries engaged in commerce with an object of "forcing or requiring any person to . . . cease doing business with any other person." The majority found that the display constituted neither picketing nor otherwise coercive non-picketing conduct. Finally, the Board found that the doctrine of "constitutional avoidance," as promulgated by the United States Supreme Court, strongly supported its decision because it would avoid a conflict between the First Amendment and the Act.

Members Hayes and Schaumber dissented, arguing that the display of banners were the "confrontational equivalent of picketing" and therefore constituted coercive secondary activity. The dissenters asserted that the majority was abandoning precedent and opening the door to an expansion of secondary activity, contrary to the intent of Congress to limit such activity.

The parties submitted the case directly to the Board by a joint motion to transfer the case, without a prior hearing before an administrative law judge.

Charges filed by Eliason & Knuth of Arizona, Northwest Hospital, LLC, and RA Tempe Corporation. Chairman Liebman and Members Schaumber, Becker, Pearce and Hayes participated.

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Naples Community Hospital, Inc. (12-CA-25689; 355 NLRB No. 171) Naples, FL, August 27, 2010. [HTML] [PDF]

The Board found that the Employer violated the Act by creating the impression that employees' union and other protected, concerted activities were under surveillance; by prohibiting employees from posting union literature in the employee break/kitchen area; and by telling employees that they were not permitted to engage in union and other protected, concerted activities in non-work, non-patient care areas. However, the Board reversed the administrative law judge's finding that the Employer discriminated against one employee because it failed to assign her charge nurse duties as it had done previously because this employee assisted the Union. Member Pearce dissented in part because the Employer's failure to retain records of charge nurse assignments was indicative of its failure to show that it would have taken the same action in the absence the employee's union activity.

Charges filed by Service Employees International Union Healthcare Florida. Administrative Law Judge John H. West issued his decision February 4, 2009. Members Schaumber, Pearce and Hayes participated.

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Research Foundation of the State University of New York at Buffalo (The) (3-RC-11882; 355 NLRB No. 175) Buffalo, NY, August 27, 2010. [HTML] [PDF]

The Board reversed the administrative law judge and found that the employer committed objectionable conduct that warranted setting aside the election when its supervisor ejected a

union organizer from a classroom building where she sought to meet with an employee. The majority found that the ejection was objectionable because it interfered with the right of the employee to "learn the advantages of self-organization" from the organizer, and because the coercive effect on the employee in witnessing the organizer's ejection was amplified by the threat to have her arrested if she did not leave the building. Member Schaumber, dissenting found that the organizer's ejection was not objectionable because she was forbidden only from meeting with the Research Foundation employee in the SUNY classroom building, and because there were alternative opportunities and locations for the two to have met prior to the election.

Petitioner – Research Foundation Professional Staff Association, NYSUT, AFT, AFL-CIO. Administrative Law Judge Bruce D. Rosenstein issued his decision April 24, 2009. Chairman Liebman and Members Schaumber and Pearce participated.

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Rite Aid Store #6473 (31-RD-01578, 16-RD-1597; 355 NLRB No.157) Victorville, CA, August 27, 2010. [HTML] [PDF]

The Board granted review as to whether the Board should modify or overrule *Dana Corp.,* 351 NLRB 434 (2007) and return to the recognition bar doctrine as set forth in *Keller Plastics Eastern, Inc, 157 NLRB 583 (1966).* The majority consolidated these two cases and noted that the Board would solicit amicus briefs on the issues raised by these cases. Members Schaumber and Hayes, dissenting, asserted that there were no compelling circumstances warranting the solicitation of briefs or a reconsideration of *Dana*. Chairman Liebman wrote a separate concurrence addressing the dissent. A notice and invitation to file briefs issued August 31, 2010.

Petitioner – an Individual. Chairman Liebman and Members Schaumber, Becker, Pearce, and Hayes participated.

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Springfield Terrace LTD (33-RC-5132; 355 NLRB No. 168) Springfield, IL, August 27, 2010. [HTML] [PDF]

The Board denied the Employer's requests for review of the Regional Director's Decision and Direction of Election and of the Regional Director's Order Denying Motion to Reopen Record for Hearing. The majority found that the evidence failed to establish that the Union waived its right to represent licensed practical nurses (LPNs) based on language in its current collective-bargaining agreement with the Employer covering nonprofessional employees. The majority emphasized that the contractual language did not satisfy the strict "clear, knowing, and unmistakable" standard for finding a waiver of the Union's right to file the present petition to represent the LPNs as a separate bargaining unit (as opposed to adding them to the unit from which they were excluded). Member Schaumber, dissenting, found that because the Regional Director clearly erred in directing an election including LPNs, notwithstanding the Union's unequivocal contractual waiver of its right to represent them during the contract term, he would grant review.

Petitioner – SEIU Healthcare Illinois and Indiana. Chairman Liebman and Members Schaumber and Pearce participated.

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Stabilus, Inc. (11-CA-20386 et al.; 355 NLRB No. 161) Gastonia, NC, August 27, 2010. [HTML] [PDF]

The Board adopted the administrative law judge's findings that the Respondent committed multiple unfair labor practices and that the election be set aside and a second election held. However, the Board reversed his finding that the Respondent violated the Act by disparately enforcing its food and drink policies against a union supporter.

The majority agreed with the judge that the Respondent had unlawfully prohibited employees from wearing prounion T-shirts but relied on the Respondent having selectively and disparately enforced its uniform policy and therefore found it unnecessary to reach the judge's conclusion. Dissenting in part, Member Schaumber disagreed and would find that the employees did not have the right to disregard an employer's lawful uniform policy and substitute prounion T-shirts for the required company shirt and the Respondent's prohibition was therefore lawful.

Charges filed by International Union, United Automobile, Aerospace & Agricultural Implement Workers of America. Administrative Law Judge Michael A. Marcionese issued his decision September 26, 2005. Chairman Liebman and Members Schaumber and Becker participated.

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Stella D'oro Biscuit Company, Inc. (2-CA-38960, 355 NLRB No. 158) Bronx, NY, August 27, 2010. [HTML] [PDF]

The Board found that the employer, a manufacturer of baked goods, violated the Act by refusing to furnish the Union a copy of its 2007 audited financial statement. Because the employer had claimed an inability to pay the costs of the expiring collective-bargaining agreement during the 2008 negotiations for a successor collective-bargaining agreement, it was obligated to furnish the Union with its requested document – the 2007 financial statement. The Board rejected the employer's assertion that it had offered the Union a valid accommodation by offering to allow the Union's representatives to view the document (without providing a photocopy). It further found that this unfair labor practice was a factor in the employees' subsequent decision to strike on August 13, 2008 and that therefore the strike was an unfair-labor-practice strike meaning there was no valid impasse in negotiations and the employer violated the Act by implementing the terms of its final offer. Finally, the administrative law judge found that the striking employees' offer to return under the terms of the expired collective-bargaining agreement was an unconditional offer, and the employer violated the Act by refusing to reinstate them. The Board ordered the employer to furnish the Union with a copy of the 2007 financial statement and, upon the Union's request, to rescind any and all changes made in the employees' terms and conditions of employment and to make the employees whole for any loss of earnings or benefits. The Board also ordered the employer to offer to reinstate all employees who participated in the unfair-labor-practice strike and pay them back any loss of earnings or benefits as a result of the refusal to reinstate them.

Dissenting, Member Schaumber wrote that he would dismiss the complaint allegation on two grounds: The employer's statements to the Union did not amount to a claim of inability to pay, and even if the employer had made such a claim, its offer to allow a review of the financial statement was adequate.

Charges filed by Local 50, Bakery, Confectionary, Tobacco Workers and Grain Millers International, AFL-CIO. Administrative Law Judge Steven Davis issued his decision June 20, 2009. Chairman Liebman and Members Schaumber and Pearce participated.

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TCB Systems, Inc. (12-CA-25299; 355 NLRB No. 162) Ft. Lauderdale, FL, August 27, 2010. [HTML] [PDF]

The Board agreed with the administrative law judge that the Employer violated the Act by failing and refusing to recognize and bargain with the Union. The majority reversed the judge and found that the Employer violated the Act by: (1) threatening not to hire the predecessor's employees because of their union activities; and (2) refusing to hire employees because of their union activities. Member Schaumber, dissenting, agreed with the judge and would dismiss the allegations that the Employer threatened not to hire and refused to hire the predecessor's employees.

Charges filed by the Service Employees International Union, Local 32BJ, successor to Service Employees International Union, Local 11. Administrative Law Judge George Carson II issued his decision on October 16, 2009. Chairman Liebman and Members Schaumber and Pearce participated.

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UGL-UNICO Service Company (1-RC-22447, 355 NLRB No. 155) Quincy, Boston, Back Bay, Westborough, Grafton, MA, August 27, 2010. [HTML] [PDF]

The Board majority granted review as to whether the Board should modify or overrule *MV Transportation*, 337 NLRB 770 (2002) and return to the successor bar doctrine as set forth in *St. Elizabeth Manor, Inc.*, 329 NLRB 341 (1999). The Board recently granted review in *Grocery Haulers, Inc.*, 3-RC-11944 (June 2, 2010) to consider the issue of whether *MV Transportation* applies in a "perfectly clear" successor situation. The Board majority consolidated these two cases for purposes of decision-making and briefing, and noted that a notice and invitation to file briefs has also issued. The Board majority emphasized that they have made no judgments about the ultimate merits. Member Schaumber, dissenting, disagreed with the "disturbing trend" by the newly formed Board majority toward "an activist agenda that includes the likely reversal of several of the prior Board's most important decisions". Member Hayes, dissenting, stated that he would adhere to and apply the principles of *MV Transportation* in the pending cases. Chairman Liebman wrote a separate concurrence addressing Member Schaumber's dissent.

Petitioner – Area Trades Council. Chairman Liebman and Members Schaumber, Becker, Pearce, and Hayes participated.

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Venetian Casino Resort, LLC (28-CA-16000; 355 NLRB No. 165) Las Vegas, NV, August 27, 2010. [HTML] [PDF]

The Board, in response to a remand by the D.C. Circuit, decided to sever and retain for further consideration and appropriate action its earlier finding that the Respondent had violated the Act by summoning the police and asking them to issue trespass citations to peaceful union

demonstrators conducting a rally on the sidewalk in front of its facility. In its earlier decision, the Board also found that the Respondent violated the Act by repeatedly informing the demonstrators via a recorded broadcast that they were subject to arrest for trespassing, and by telling a union representative, a participant in the demonstration, that he was being placed under citizen's arrest. The D.C. Circuit enforced the portions of the Board's Order addressing the broadcasting of the trespass message and the attempt to effect a citizen's arrest, but held that the Board had failed to consider the Respondent's contention that its summoning the police constituted direct petitioning of government, and as such was protected by the First Amendment. The court remanded that finding to the Board. The Board's Order both reaffirmed the previous Order as enforced by the court and severed the remanded finding for further consideration.

Charge filed by Local Joint Executive Board of Las Vegas, Culinary Workers Union, Local 226 and Bartenders Union, Local 164, affiliated with Hotel Employees and Restaurant Employees International Union. Chairman Liebman and Members Schaumber and Becker participated.

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Wheeling Island Gaming, Inc. (6-RC-12664; 355 NLRB No. 127) Wheeling, WV, August 27, 2010. [HTML] [PDF]

The Board found that a unit limited only to poker dealers at the employer's casino was not an appropriate unit for collective-bargaining purposes. The majority affirmed the acting regional director's finding that the unit should also include craps, roulette, and blackjack dealers. Member Becker, dissenting, found that a unit limited only to poker dealers was an appropriate unit without including the other dealers.

Petitioner -- United Food and Commercial Workers International Union, Local 23. Acting Regional Director Stanley R. Zawatski issued his decision and direction of election April 6, 2009. Chairman Liebman and Members Schaumber and Becker participated.

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APS Events, LLC (5-CA-34875; 355 NLRB No. 152) Glen Burnie, MD, August 27, 2010. [HTML] [PDF]

The Board granted the General Counsel's motion for summary judgment based on the Respondent's failure to file an answer to the Board's Notice to Show Cause. Charge filed by International Alliance of Theatrical Stage Employees, Moving Pictures Technicians, Artists and Allied Crafts of the United States, its Territories and Canada, AFL-CIO, CLC, Local 19. Chairman Liebman and Members Schaumber and Becker participated.

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Brentwood Assisted Living Community (13-CA-46045; 355 NLRB No. 149) Hobart, IN, August 27, 2010. [HTML] [PDF]

The Respondent admitted its refusal to bargain, but contested the validity of the certification based on its objections to the election in the representation proceeding. Charge filed by Service Employees International Union Healthcare Illinois/Indiana. Chairman Liebman and Members Schaumber and Pearce participated.

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Hatcher Trade Press, Inc. d/b/a Hatcher Press Inc. (20-CA-34695; 355 NLRB No. 175) San Carlos, CA, August 31, 2010. [HTML] [PDF]

The Board granted the General Counsel's motion for Default Judgment based on the Respondent's failure to file an answer to the complaint. Charge filed by International Brotherhood of Teamsters, Local 853. Chairman Liebman and Members Pearce and Hayes participated.

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Decisions in cases involving prior rulings by two-member Board

The following cases involve prior rulings by the two-member Board, whose authority to act was rejected by the U.S. Supreme Court decision in *New Process Steel, LP* (June 17, 2010). The new decisions summarized here were reached by a three-member panel of the Board or by the full Board.

ADB Utility Contractors, Inc. (14–CA–27386, et al., 355 NLRB No. 172) St. Louis, MO, August 27, 2010. [HTML] [PDF] ***American Directional Boring, Inc., d/b/a ADB Utility Contractors, Inc.***

The Board found that the Employer, which is engaged in aerial and underground installation and maintenance of cable fiber optics, violated the Act by discharging 13 union supporters. In doing so, the Board rejected the Employer's argument that the individuals who were discharged were statutory supervisors. The Board also affirmed the administrative law judges' findings that a category I *Gissel* bargaining order was warranted in light of the Employer's extensive record of unlawful conduct. (The Employer did not appeal the judges' findings that it violated the Act by: impliedly threatening employees with job loss, futility, and closure; soliciting union supporters to quit their employment; impliedly threatening discipline for wearing Union pins; impliedly threatening reduction or loss of their bonus; threatening loss of insurance and retirement plan; threatening to subcontract more work; interrogating employees about their union activities and threatening unspecified reprisals because of their union activities; and creating an impression of surveillance.)

Charges filed by Local 2, International Brotherhood of Electrical Workers, AFL–CIO. Administrative Law Judge Benjamin Schlesinger issued his decision May 10, 2005, and Administrative Law Judge Paul Buxbaum issued his decision August 23, 2007. Chairman Liebman and Members Schaumber and Becker participated.

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AM Property Holding Corp., Maiden 80/90 NY LLC and Media Technology Centers, LLC, a single employer, a joint employer with Planned Building Services, Inc. (2-CA-33146-1, et al.; 355 NLRB No. 151) New York, NY, August 27, 2010. [HTML] [PDF]

The Board granted the General Counsel's motion for reconsideration and found that controlling precedent permits Board review of an alternative legal theory that a judge failed to consider, even if no exception was filed. The Board considered the alternative theory and, in light of other findings in the prior decision, concluded that Respondent Planned Building Services unlawfully recognized the United Workers of America as the employees' representative when it did not represent an uncoerced majority. The Board denied Service Employees Local 32BJ's motion for

reconsideration of its refusal to decide whether Planned Building Services was a successor to the previous cleaning contractor or to grant additional special remedies.

Charges filed by Local 32BJ, Service Employees International Union. Chairman Liebman and Members Schaumber and Hayes participated.

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Coastal Insulation Corporation and Elmsford Insulation Corporation, and Sealrite Insulation of New York, a single employer (22-CA-28439; 355 NLRB No. 146) East Windsor, NJ, August 27, 2010. [HTML] [PDF]

The Board adopted the administrative law judge's finding that the Respondent violated the Act when it discharged a group of its insulation installers after they complained about wage payment issues. The judge found that the installers engaged in concerted protected activity when they held a meeting to discuss their common grievances about the operation, application, and implementation of the Respondent's new pay system and ultimately to prepare a petition of their concerns and present it to management. The judge found no merit to the Respondent's contention that the installers were attempting to dictate the terms of their employment to the Respondent by attempting to change the Respondent's pay scale. The judge credited evidence that the Respondent terminated the installers following their meeting to discuss the Respondent's new pay system.

However, Member Pearce did not affirm the judge's analysis of the installer employees' concerted activity at the July 2, 2008 meeting, or the description of its purpose, but he agreed with the judge's conclusion that their conduct was protected. Member Pearce further did not adopt the judge's blanket statement that "[i]t is axiomatic under Board law that an employer is entitled to set the terms and conditions of employment of its work force."

Charge filed by an Individual. Administrative Law Judge Earl E. Shamwell issued his decision April 2, 2009. Chairman Liebman and Members Schaumber and Pearce participated.

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Community Medical Center (4-CA-34888, et al., 4-RC-21199; 355 NLRB No. 128) Toms River, NJ, August 26, 2010. [HTML] [PDF]

The Board adopted the administrative law judge's findings that the Respondent violated the Act by directing union representatives to retrieve their vehicles and leave the parking garage, and by promising employees improved terms and conditions of employment in order to discourage them from choosing the Union. The Board reversed the judge's finding that the Respondent violated the Act by hiring a former union organizer and assigning him to campaign against the Union without providing assurances to employees that information concerning who supported the Union would not be used against them. Based on the violations found, the Board further adopted the judge's recommendation to set aside the election results and found it unnecessary to pass on the judge's findings regarding the Union's Objections 1 through 5.

Charges filed by and petitioner – New York State Nurses Association. Administrative Law Judge Bruce D. Rosenstein issued his decision March 14, 2008. Chairman Liebman and Members Schaumber and Pearce participated.

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Galicks, Inc. (8-CA-36079, 36766; 355 NLRB No. 68) New Philadelphia, OH, August 6, 2010. [HTML] [PDF]

The Board affirmed the administrative law judge's finding on the allegation that Galicks violated the Act by assigning bargaining-unit work to nonunit employees without affording the Union an opportunity to bargain. The Board also affirmed, for reasons it substituted in place of the judge's analysis, the judge's findings that Galicks violated the Act by refusing to furnish the Union information it requested in August 2005 and August 2006, and by withdrawing recognition from the Union in September 2006. Finally, the Board reversed the judge's decision and found that Galicks violated the Act by failing to recall journeymen from layoff because the journeymen were represented by the Union.

Charges were filed by Sheet Metal Workers International Association, Local Union No. 33 of Northern Ohio, AFL-CIO. Administrative Law Judge Ira Sandron issued his decision June 20, 2007. Chairman Liebman and Members Schaumber and Pearce participated.

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Legacy Health System, (36-CA-10299; 355 NLRB No. 76) Portland, OR, August 9, 2010. [HTML] [PDF]

The Board adopted the Administrative Law Judge's finding that the Respondent's prohibition against an employee holding dual part-time positions – one in a unit represented by a union and the other not – constituted a hiring policy that discriminated on the basis of Section 7 considerations.

Charge was filed by Service Employees International Union, Local 49. Administrative Law Judge Gerald A. Wacknov issued his decision February 11, 2009. Chairman Liebman and Members Schaumber and Pearce participated.

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Quickway Transportation, Inc. (5-CA-33111; 355 NLRB No. 140) Landover, MD, August 27, 2010. [HTML] [PDF]

The Board found that the Employer violated the Act by engaging in surveillance of its drivers because of their union activities; by creating the impression that union activities were under surveillance; by interrogating an employee about his union activities; by refusing to reinstate former unfair labor practice strikers; by engaging in a retaliatory lockout of unit employees; by dealing directly with an employee about changing his employment status; and by transferring unit work to owner-operators without first bargaining with the Union. However, the Board reversed on due process grounds the judge's finding that an employee's discharge violated the Act.

Charges filed by Drivers, Chauffeurs & Warehousemen Teamsters Local Union No. 639 a/w International Brotherhood of Teamsters. Administrative Law Judge Eric M. Fine issued his decision September 12, 2008. Chairman Liebman and Members Schaumber and Hayes participated.

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St. George Warehouse (22-CA-23223 et al.; 355 NLRB No. 81) Kearny, NJ, August 10, 2010. [HTML] [PDF]

This is a compliance case concerning back pay awards to two employees who were found by the Board to have been unlawfully discharged by their employer, a warehousing company. Relying on what was then current Board law, an administrative law judge determined that the employer bore the entire burden of showing that the discharged employees failed to mitigate their damages by searching for other work, and that the Respondent in this case had not met the burden. The employer filed exceptions with the Board, noting that comparable jobs were available in the area at the time of the discharges. The Board determined that, with that information in hand, the burden of proof should shift to the General Counsel to show that reasonable steps were taken to seek the available jobs. The case was remanded to the judge, who found that even under the new standard, the employer had failed to meet the burden of proof. The Board affirmed the judge's Second Supplemental Decision

Charges filed by Merchandise Drivers Local 641, International Brotherhood of Teamsters. Administrative Law Judge Steven Davis issued his second supplemental decision November 17, 2008. Chairman Liebman and Members Schaumber and Becker participated.

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Turtle Bay Resorts, and Benchmark Hospitality, Inc. (37-CA-6601-1 et al.; 355 NLRB No. 147) Kahuku, HI, August 27, 2010. [HTML] [PDF]

The Board adopted the administrative law judge's findings that the two entities which own the beach resort are a single employer, and that the third entity which operated and managed the resort was a joint employer with at least one of the other two. The Board also adopted the judge's findings that the Employer committed numerous violations of the Act while negotiations were continuing between the Employer and the Union for a new contract. The Employer maintained various overbroad rules which chilled protected activity; summoned law enforcement officers to eject Union representatives who were conducting union business; photographed and videotaped union representatives and employees engaged in protected activity; followed and eavesdropped on the discussions of Union representatives with employees; prevented Union representatives and employees from going to the public beach adjacent to the resort to demonstrate; disparaged the Union; threatened closure of the resort; failed to provide the Union with requested relevant information; issued an unlawful warning to one employee; unlawfully suspended another employee; and unlawfully discharged yet another employee. The Board adopted some violations in the absence of exceptions, limited other violations to certain dates because additional findings were cumulative and would not affect the remedies, clarified the discriminatory discharge violation, and remanded one issue to the judge for further proceeding.

Charges filed by UNITE HERE Local 5. Administrative Law Judge Joseph Gontram issued his decision May 24, 2006. Chairman Liebman and Members Schaumber and Hayes participated.

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United Food and Commercial Workers Local 4, affiliated with United Food and Commercial Workers (Safeway, Inc.) (19-CB-9660; 355 NLRB No. 133) Whitefish, MT, August 26, 2010. [HTML] [PDF]

Consistent with federal law, an individual objected to paying Union dues for nonrepresentational activities engaged in by the Union and sought a reduction in her dues for such activities.

Disagreeing with the administrative law judge, the Board found that the Union violated the Act by failing to provide the individual with a sufficiently verified statement of the Union's expenditure information that would have enabled the individual to determine whether to challenge the dues-reduction calculations presented to her by the Union.

Charge filed by an Individual. Administrative Law Judge James M. Kennedy issued his decision May 20, 2008. Chairman Liebman and Members Schaumber and Becker participated.

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Whitesell Corporation (18-CA-18143 et al.; 355 NLRB No. 134) Washington, IA, August 26, 2010. [HTML] [PDF]

The Board agreed with the administrative law judge that the Employer violated the Act by prohibiting employees from distributing union notices during their breaktimes and from posting union materials on the Employer's bulletin boards. The Board also agreed with the judge that the Employer unlawfully terminated the parties' existing collective-bargaining agreement without providing notice to the Federal Mediation and Conciliation Service, failed to provide the Union with information regarding merit pay, vacation, and assignment of unit employees; unilaterally implemented portions of its final offer without first bargaining with the Union to impasse; discontinued the supplemental accident insurance fund; discontinued dues check-off; and refused to process grievances. The General Counsel did not appeal the judge's dismissal of several allegations, including that the Employer unlawfully denigrated the Union's representative and threatened bargaining futility and plant closure.

Charges filed by Glass Molders, Pottery, Plastics and Allied Workers International Union Local 359. Administrative Law Judge Bruce D. Rosenstein issued his decision March 2, 2007. Chairman Liebman and Members Schaumber and Pearce participated.

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M&B Services, Inc. (15-CA-18808; 355 NLRB No. 136) New Orleans, LA, August 26, 2010. [HTML] [PDF]

The General Counsel sought default judgment in this case on the ground that the Respondent failed to file an answer to the complaint. Accordingly, the Board adopted the findings of fact, conclusions of law, remedy, and order set forth in the decision and order. Charge filed by Service Employees International Union, Local 100. Chairman Liebman and Schaumber and Hayes participated.

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Snell Island SNF LLC d/b/a Shore Acres Rehabilitation and Nursing Center, LLC, and HGOP, LLC d/b/a Cambridge Quality Care, LLC (12-CA-25854, 12-RC-9281; 355 NLRB No. 143) St. Petersburg, FL, August 27, 2010. [HTML] [PDF]

This is a refusal-to-bargain case in which the Respondent contested the union's certification as bargaining representative in the representation proceeding. The Board reviewed the record in light of exceptions and brief, and adopted the Regional Director's findings and recommendations to the extent and for the reasons stated in the March 13, 2008 Decision and Certification of

Representative. Charge filed by and petitioner – United Food and Commercial Workers Union, Local 1625. Chairman Liebman and Members Schaumber and Becker participated.

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Unpublished Board Decisions in Representation Cases

American Red Cross, Heart of America Blood Services Region (33-RC-5033) Peoria, IL, September 1, 2010. Decision of Review and Order – affirming Regional Director's decision and remanding to Regional Director for further appropriate action. Petitioner – AFSCME (The American Federation of State, County and Municipal Employees) Council 31. Chairman Liebman and Members Pearce and Hayes participated.

Europa Auto Imports, Inc., d/b/a Mercedes-Benz of San Diego (21-RC-21210) San Diego, CA, August 31, 2010. Order amending the Acting Regional Director's decision to permit roadside assistance technician, technician/shop foreman and PDI technicians to vote under challenge, and the Employer's request for review is denied in these and all other respects. Petitioner – International Association of Machinists and Aerospace Workers, AFL-CIO, District Lodge 190. Members Becker, Pearce, and Hayes participated.

Grocery Haulers, Inc. (3-RC-11944) Albany, NY, August 31, 2010. Notice and Invitation to File Briefs – briefs due on or before 11/01/10; responsive briefs due on or before 11/15/10. Petitioner – Teamsters, Local 294, International Brotherhood of Teamsters.

Heartland of Canton, MI, LLC (7-RC-23360) Canton, MI, August 30, 2010. Order denying Employer's request for review of the Regional Director's decision and direction of election as moot, as the petition for an election was withdrawn. Petitioner – International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America (UAW0, AFL-CIO. Members Becker, Pearce, and Hayes participated.

Imperial Glass Company, Inc. (32-RC-5714) Fresno, CA, August 31, 2010. No exceptions having been filed to the Regional Director's report recommending disposition of challenged ballots in an election held March 5, 2010, the Board adopted the Regional Director's findings and recommendations remanding proceeding to Regional Director for further appropriate action. Petitioner – District Council 16, Local 294, International Union of Painters and Allied Trades.

Kimberly-Clark, Conway Personal Care Facility (26-RD-1170) Conway, AR, September 1, 2010. No exceptions having been filed to the Acting Regional Director's report recommending disposition of objections to an election held April 27, 2010, the Board adopted the Acting Regional Director's findings and recommendations and found that a certification of results of election should be issued. Petitioner – an Individual.

Lamons Gasket Company a Division of Trimas Corporation (16-RD-1597) Houston, TX, August 31, 2010. Notice and Invitation to File Briefs – briefs due on or before 11/01/10; responsive briefs due on or before 11/15/10. Petitioner – an Individual

Northwest Connecticut Public Safety (34-RC-2368) Prospect, CT, September 1, 2010. No exceptions having been filed to the Acting Regional Director's report recommending disposition of objections for an election held March 12, 2010, the Board adopted the Acting Regional Director's findings and recommendations and ordered that the proceedings be remanded to the

Regional Director for further appropriate action. Petitioner – National Emergency Medical Services Association.

Rite Aid Store #6473 (31-RD-1578) Victorville, CA, August 31, 2010. Notice and Invitation to File Briefs – briefs due on or before 11/01/10; responsive briefs due on or before 11/15/10. Petitioner – UFCW Local 1167.

UGL-UNICCO Service Company (1-RC-22447) Charlestown, MA, August 31, 2010. Notice and Invitation to File Briefs – briefs due on or before 11/01/10; responsive briefs due on or before 11/15/`0. Petitioner – Area Trade Council.

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Unpublished Board Decisions in Returned Representation Cases

The following unpublished Board decisions involve prior rulings by the two-member Board, whose authority to act was rejected by the U.S. Supreme Court decision in New Process Steel, LP (June 17, 2010). The new decisions summarized here were reached by a three-member panel of the Board or by the full Board.

Ace Car & Limousine Service, Inc. (29-RD-1140) Brooklyn, NY, August 27, 2010. Order affirming the decision to grant the earlier request for review. Petitioner – an Individual. Chairman Liebman and Members Schaumber and Becker participated.

Avista Corporation (19-RC-15234) Spokane, WA, August 27, 2010. Order affirming the decision to grant the earlier request for review. Petitioner – International Brotherhood of Electrical Workers, Local 77. Chairman Liebman and Members Schaumber and Hayes participated.

Fedex Home Delivery, an operating division of Fedex Ground Package Systems, Inc. (34-RC-2205) Windsor, CT, August 27, 2010. Order reaffirming the May 27, 2010 decision and certification of representative and denying the employer's amended motion for reconsideration. Petitioner – International Brotherhood of Teamsters, Local 671. Chairman Liebman and Members Schaumber and Pearce participated.

Guide Dogs for the Blind, Inc. (20-RC-18286) San Rafael, CA, August 27, 2010. Order affirming the decision to grant the earlier request for review solely with respect to the exclusion of employees from the veterinary, AAGSO, breeding, kennel and puppy-raising departments and affirming the decision to deny the request for review in al other respects. Petitioner – Office of Professional Employees International Union, Local 29. Chairman Liebman and Members Schaumber and Hayes participated.

Northrop Grumman Shipbuilding, Inc. (5-RC-16292) Newport News, VA, August 27, 2010. Order affirming the decision to grant the earlier request for review. Petitioner – International Association of Machinists and Aerospace Workers, AFL-CIO. Chairman Liebman and Members Schaumber and Hayes participated.

NV Energy, Inc. (28-UC-243) Las Vegas, NV, August 27, 2010. Order affirming the decision to grant the Employer's request for review and affirming the decision to deny the Petitioner's

request for review. Petitioner – International Brotherhood of Electrical Workers, Local 396, AFL-CIO. Chairman Liebman and Members Schaumber and Hayes participated.

Plano Symphony Orchestra (16-RC-10844) Plano, TX, August 27, 2010. Order affirming the decision to grant the earlier request for review solely with respect to the status of the musicians and affirming the decision to deny the request for review in all other respects. Petitioner – Dallas/Fort Worth Professional Musicians Association, Local 72-147. Chairman Liebman and Members Schaumber and Pearce participated.

Los Angeles Times Communications, LLC (21-UD-415) Los Angeles, CA, August 27, 2010. Order affirming the decision to grant the earlier request for review. Petitioner – an Individual. Chairman Liebman and Members Schaumber and Becker participated.

Specialty Healthcare and Rehabilitation Center of Mobile (15-RC-8773) Mobile, AL, August 27, 2010. Order affirming the decision to grant the earlier request for review. Petitioner – United Steel, Paper and Forestry, Rubber, Manufacturing Energy, Allied Industrial and Service Workers International Union. Chairman Liebman and Members Schaumber and Becker participated.

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Decisions of Administrative Law Judges

Exhibitus, LLC (4-CA-37328; JD-40-10) Moorestown, NJ. Charge filed by New Jersey Regional Council of Carpenters, United Brotherhood of Carpenters and Joiners of America. Administrative Law Judge Robert A. Giannasi issued his decision September 3, 2010. [HTML] [PDF]

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